

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
Glenn D. Kirwin, <i>et. al.</i>)	
Application No: 09/745,651)	Art Unit: 3691
Filed: December 22, 2000)	Confirmation No.: 1536
For: SYSTEMS AND METHODS FOR)	Examiner: Muriel S. Tinkler
PROVIDING A TRADING)	
INTERFACE)	

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants request review of the Final Office Action of August 18, 2009 (“Final Action”) in the above-identified application.

Claims **37-40, 50** and **63-99** are pending in this application, of which claims **37** and **76** are independent claims.

I. Failure to address any of the limitations of claims 50 and 80 results in clear error.

Claims **50** recites:

The method of claim 40, in which the act of generating the second interface further comprises: *automatically posting the bid size in the at least one size field* (emphasis added).

The Examiner rejects claims **50** by stating, “Claim 40 has been rejected based on the discussion(s) above. See the rejection of claim 17.” Final Action, p. 6 (emphasis added). No further explanation is provided.

However, no rejection of claim **17** exists in the Final Action, in large part, because claim **17** is no longer pending in the application— it was cancelled in the Reply to Office Action of April 30, 2009. Clearly, the Examiner’s rejection is in error.

Neither does the Examiner's rejection of claim 40 address the limitations of claim **50**.

Thus, the Examiner's failure to address any of the limitations of claim **50** is in clear error. There is no *prima facie* showing of obviousness for claim **50** in the Final Action.

The Examiner also relies on the same faulty rationale in rejecting claim **80**. Final Action, p. 9 ("Regarding claim 80: see the rejection of claim 50 above."). For at least the same reasons cited-above, the Examiner's rejection of claim **80** also is in error and fails to establish a *prima facie* showing of obviousness for claim **80**.

II. Failure to address all of the limitations of claims 37 and 76 results in clear error.

Claim **37** recites, in part:

... displaying, using a computing device, a first interface that comprises a plurality of variables associated with trading at least one item...

... generating a second interface in response to the selection of the variable, in which the second interface comprises:

at least one size field that is alterable;
at least one price field that is alterable; and
a button for submitting the trading command...

It appears that the Examiner relies on an outdated version of claim **37**. See, Final Action, p. 4-5. Specifically, the claim language recited in the Final Action does not correspond with the actual language of claim **37**.

Moreover, the Examiner is completely silent with regards to the following limitation of claim **37**: "*displaying... a first interface that comprises a plurality of variables associated with trading at least one item.*"

Nor does the Examiner address the limitation: "*generating a second interface in response to the selection of the variable, in which the second interface comprises: at least one size field that is alterable; at least one price field that is alterable; and a button for submitting the trading command.*"

Thus, the Examiner's reliance on an outdated version of claim **37** results in a failure to address all of the limitations of the claim. As such, there is no *prima facie* showing of obviousness for claim **37** in the Final Action.

The Examiner also relies on the same faulty rationale for rejecting claim **76**. Final Action, p. 9 ("Regarding claim 76: see the rejection of claim 37 above."). For at least the same reasons cited-above, the Examiner's rejection of claim **76** also is in clear error and fails to establish a *prima facie* showing of obviousness for claim **76**.

III. Failure to address all of the limitations of claims 65 and 83 results in clear error.

Claim **65** recites:

... in which the variable that is selected in the first interface comprises an offer size; and
in which the act of generating the second interface further comprises: automatically posting the offer size in the at least one size field.

Again, it appears that the Examiner relies on an outdated version of claim **65**, since the rejection has no bearing, whatsoever, to the actual language of claim **65**. Specifically, the Examiner states the following:

Regarding claim 65, Tuck discloses a first interface displays an offer variable and the trading command comprises an offer command submitted by selecting the offer price in figure 17 (see 'Buy' tab).

Final Action, p. 8.

The Examiner is completely silent with regards to the following limitation of claim **65**: "*the act of generating the second interface further compris[ing] automatically posting the offer size in the at least one size field,*" as recited by claim **65**. Neither does figure 17 of Tuck teach or suggest this limitation.

Thus, the Examiner's reliance on an outdated version of claim **65** results in a failure to address all of the limitations of the claim. As such, there is no *prima facie* showing of obviousness for claim **65** in the Final Action.

The Examiner also relies on the same faulty rationale for rejecting claim **83**.
Final Action, p. 9 (“Regarding claim 83: see the rejection of claim 65 above.”). For at
least the same reasons cited-above, the Examiner’s rejection of claim **83** also is in clear
error and fails to establish a *prima facie* showing of obviousness for the claim.

Respectfully submitted,

Date: November 18, 2009

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